

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments)

FM Broadcast Stations,)

Big Pine Key, Key Colony Beach,)

Naples and Tice, Florida)

MM Docket No. 94-155

RM-8468

To: Chief, Allocations Branch

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JOINT REPLY COMMENTS

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WSUV, INC.
GGG BROADCASTING, INC.
GLADES MEDIA COMPANY

GULF COMMUNICATIONS
PARTNERSHIP

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March 6, 1995

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Summary

Amaturo Group, Ltd., WSUV, Inc., Glades Media Company, GGG Broadcasting, Inc. and Gulf Communications Partnership (collectively, "Joint Commenters") propose a Joint Resolution to pending counterproposals in MM Docket No. 94-155. The Joint Resolution permits each party requesting an upgrade in this proceeding to upgrade their facilities and permits five stations to provide wide area service to 1,229,204 persons. The Joint Resolution also resolves conflicting proposals in another pending rule making proceeding and an application for review of the Allocation Branch's decision, thereby conserving Commission resources and permitting expedited upgrading of service by the prevailing party therein.

The Joint Commenters request that the Commission stay action on their pending counterproposals and instead promptly place this Joint Resolution on public notice. A stay on consideration of the pending pleadings will not harm any other party in this proceeding. Placing the pending counterproposals on public notice, on the other hand, will force the Joint Commenters to abandon the Joint Resolution in order to preserve their procedural rights. The litigation that would ensue would delay implementation of wide area service to the public and would consume the resources of the Commission and the public in an unnecessary effort to choose between two mutually exclusive counterproposals.

Under the Joint Resolution, everyone **wins**. The Joint Resolution permits each proponent to provide wide area service,

expedites and enhances service to the public, and conserves the resources of the Commission and the public by avoiding a lengthy and costly rule making proceeding, and resolving another already burdensome rule making proceeding.

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Table of Allotments)	
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To: Chief, Allocations Branch

JOINT REPLY COMMENTS

Amaturo Group, Ltd. ("Amaturo"), licensee of WPBZ(FM), Indiantown, Florida; WSUV, Inc. ("WSUV"), licensee of WROC(FM), Fort Myers Villas, Florida; GGG Broadcasting, Inc. ("GGG"), permittee of WJBW(FM), Jupiter, Florida; Glades Media Company, licensee of WAFC-FM, Clewiston, Florida ("Glades"); Gulf Communications Partnership, permittee of WAAD(FM), Tice, Florida (collectively, "Joint Commenters"), by their attorneys, and pursuant to Sections 1.415 and 1.420 of the Commission's rules, hereby file their Joint Resolution in response to the proposal and counterproposals filed in this rule making proceeding.¹

1. As described in greater detail below, the Joint Commenters offer a comprehensive proposal that would resolve conflicting counterproposals in this proceeding. Whereas the Joint Commenters separately propose upgrades for one to four different stations, the Joint Resolution provides upgrades for all five stations. The

¹ The Notice of Proposed Rule Making, DA 94-1501, authorizes the filing of reply comments on or before March 6, 1995. Thus, these reply comments are timely filed.

Joint Resolution thereby permits upgraded service for five stations, with wide area service to an additional 1,229,204 persons. See Engineering Statement of James Johnson, ("Engineering statement") at Exhibit 12.²

2. In addition, favorable action on the Joint Resolution would resolve favorably pending proposals for service improvements in Southern Florida³ as well as a pending application to retain full Class C Status for WWUS(FM) at Big Pine Key, Florida.⁴ Granting the Joint Resolution would render moot pending petitions for reconsideration in Clewiston and Big Pine Key, thereby expediting wide area service to the public. In support whereof, the following is shown.

² Mr. Johnson's Engineering Statement is attached as Exhibit 1.

³ In a previous rule making proceeding, Amaturro, WSUV and Glades proposed upgrades for FM Radio Broadcast Stations in Fort Myers Villas, Jupiter and Indiantown, Florida. The Commission dismissed the counterproposal on procedural grounds. Clewiston, Florida, 9 FCC Rcd 4051, 4052 (Chief, Allocations Branch, 1994). The Joint Counterproponents have pending a petition for reconsideration of the Commission's decision.

⁴ Crain Broadcasting, Inc., licensee of WWUS(FM), Big Pine Key, Florida, filed an application to retain full Class C Status (File No. BPH-870302MQ). The Commission returned the application and downgraded WWUS to Channel 284C1. Memorandum Opinion and Order, 8 FCC Rcd 4406 (1993). Crain has appealed the Commission's decision.

INTRODUCTION

3. On September 23, 1994, Gulf Communications Partnership ("Gulf"), permittee of WAAD(FM), Tice, Florida, filed a petition for rule making with the Commission seeking to amend the Table of Allotments as follows:

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Call Sign</u>
Tice	229A	229C2	WAAD(FM)
Big Pine Key	284C	283C	WWUS(FM)
Key Colony Beach	280C2	267C2	WKKB(FM)
Naples	228A	284A	WNOG-FM

In response to Gulf's petition, the Commission issued a Notice of Proposed Rule Making, DA 94-1501 (released December 27, 1994) ("NPRM"), seeking comments on the proposal.

4. Two counterproposals were filed in response to the NPRM. Gulf filed a counterproposal modifying its original proposal by changing the community of license for WAAD from Tice to Estero, Florida, substituting Channel 229C2 for Channel 229A, and modifying the license of WAAD accordingly. To facilitate this change to the FM Table of Allotments, Gulf proposed, inter alia, that channel 284A be substituted for Channel 228A at Naples and the license of FM Station WNOG be modified accordingly. Palmer opposed the substitution of Channel 284A for Channel 228A at Naples, arguing that its operation on Channel 284A in combination with the operation of other local stations would contribute to intermodulation interference in VOR aircraft radios.

5. Amaturro, GGG, WSUV and Glades ("Joint Counterproponents") filed a joint counterproposal to the Gulf proposal, requesting

channel substitutions for the following communities under two different alternatives:

FIRST ALTERNATIVE

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Call Sign</u>
Indiantown	276C2	276C1	WPBZ (FM)
Naples	276C3	284C3	WSGL (FM)
Big Pine Key	284C	281C	WWUS (FM)
Key Colony Beach	280C2	267C2	WKKB (FM)
Ft. Myers Villas	292A	292C2	WROC (FM)
Clewiston	292A	258C3	WAFC-FM
Jupiter	258A	292C3	WJBW (FM)
Avon Park	292A	256A	WVOJ (FM)

SECOND ALTERNATIVE

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Call Sign</u>
Indiantown	276C2	276C1	WPBZ (FM)
Naples	276C3	284C3	WSGL (FM)
Big Pine Key	284C	281C	WWUS (FM)
Key Colony Beach	280C2	267C2	WKKB (FM)
Palm River	---	292A	----
Ft. Myers Villas	292A	275C2	WROC (FM)
Clewiston	292A	258C3	WAFC-FM
Jupiter	258A	292C3	WJBW (FM)

Either alternative is mutually exclusive with Gulf's proposal.

6. The Joint Commenters offer a Joint Resolution that provides upgraded facilities for each proponent and counterproponent in this proceeding. The Joint Resolution requests the following channel substitutions:

Joint Resolution

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Call Sign</u>
Indiantown	276C2	276C1	WPBZ(FM)
Naples	276C3	284C3	WSGL(FM)
Big Pine Key	284C	281C	WWUS(FM)
Key Colony Beach	280C2	267C2	WKKB(FM)
Naples	228A	292A	WNOG(FM)
Ft. Myers Villas	292A	275C2	WROC(FM)
Clewiston	292A	258C3	WAFC-FM
Jupiter	258A	292C3	WJBW(FM)
Tice	229A	---	---
Estero	---	229C2	WAAD(FM)

I. REQUEST FOR STAY

7. The Joint Commenters request the Commission to stay any action on their pending proposal and counterproposals in this rule making proceeding.⁵ In particular, the Joint Commenters request that at this time the Commission not place the counterproposals on public notice. Instead, the Joint Commenters request that this Joint Resolution be placed on public notice as better serving the public interest.

8. Placing only the Joint Resolution on public notice would better serve the public interest by avoiding protracted litigation over mutually exclusive counterproposals, conserving the Commission's resources by avoiding the need to perform a comparative analysis of mutually exclusive proposals. Under the Joint Resolution, the Commission can grant both counterproposals

⁵ Specifically, Joint Commenters request a stay of Gulf's proposal as adopted in the NPRM, Gulf's counterproposal filed on February 17, 1995 and Joint Counterproponents' counterproposal filed on February 17, 1995.

and everyone wins. The parties will therefore be able to focus their efforts on expediting wide area service to the public, thereby better serving the public interest and conserving the Commission's resources.

9. Placing both counterproposals on public notice, on the other hand, would not serve the public interest. Gulf's and Joint Counterproponents' respective counterproposals are mutually exclusive. Placing these counterproposals on public notice requires the Joint Commenters to abandon the Joint Resolution and advocate their respective counterproposals. This would not serve the public interest as neither counterproposal provides wide area service to all five stations. In addition, a lengthy rule making proceeding would ensue, consuming the Commission's resources and those of the counterproponents. Under this scenario, the public loses in two ways; first, through the delayed implementation of wide area service and second, through the loss of a rapid resolution to permit the provision of wide area service for the greatest number of stations at the earliest possible time.

10. Joint Commenters emphasize that in filing this Joint Resolution, they are not withdrawing or abandoning their proposal or counterproposals. Nor is the filing of this Joint Resolution intended on the part of Joint Commenters to bar them from raising any arguments against the pending proposal and counterproposals in the event the Commission should reject the Joint Resolution. Instead, in the interest of providing service to the public on an expedited basis and conserving resources, the Joint Commenters are

filing this Joint Resolution. In the unlikely event however that the Commission rejects the Joint Resolution, the Joint Commenters would then request that their counterproposals be placed on public notice and that they be afforded a procedural opportunity to comment on each other's counterproposal.

II. DISCUSSION

11. The Joint Resolution proposes a co-channel upgrade for WPBZ from Channel 276C2 to Channel 276C1. Because Channel 276C1 is short-spaced to WSGL on Channel 276C3, Channel 284C3 must be substituted for Channel 276C3 at Naples and the license of WSGL modified accordingly.

12. Substituting Channel 284C3 for WSGL conflicts with Gulf's proposal to allot Channel 284A in lieu of 228A for WNOG at Naples, and Channel 283C in lieu of 284C for WWUS at Big Pine Key. In addition, Channel 284C3 is short-spaced to WWUS on Channel 284C. Resolution of the conflict and the short-spacing is achieved with the following channel substitutions. First, substitute Channel 281C for Channel 284C at Big Pine Key and modify the license of WWUS accordingly⁶. This in turn requires a change in the transmitter site of WKRY(FM), Channel 228C at Key West, Florida to eliminate potential IF interference. Key Chain Broadcasting, Inc.,

⁶ Substituting channel 281C is possible because of channel changes for WZMQ(FM) at Key Largo, Florida from channel 280C2 to channel 292C2, and WAVK(FM) at Marathon, Florida from channel 292A to channel 288C2 as ordered by the Commission in Clewiston, Florida, 9 FCC Rcd at 4051.

licensee of WKRY, has consented to change its transmitter site to eliminate the short-spacing.⁷ In addition, substituting Channel 267C2 for Channel 280C2 at Key Colony Beach and modifying the permit of WKKB accordingly eliminates the short-spacing between WWUS and WKKB.

13. The Joint Resolution requests the substitution of Channel 292A for Channel 228A at Naples, Florida and modification of the license of WNOG to operate on Channel 292A. Channel 292A may be allotted to Naples in compliance with the Commission's mileage separation rules. See Engineering Statement at 3-4 & Exhibit 5-B. Substitution of Channel 292A for WNOG eliminates the need to substitute Channel 284A for Channel 228A at Naples, thereby eliminating Palmer's concern of interference modulation on Channel 284A. The channel substitution also permits the substitution of Channel 229C2 for Channel 229A and the modification of license for WAAD accordingly.

14. The substitution of Channel 292A to Naples is short-spaced to WROC on Channel 292A at Fort Myers Villas and to WAFC on Channel 292A at Clewiston. The short-spacing is eliminated by both WROC and WAFC relinquishing their channels to WNOG at Naples and operating on Channels 275 and 258, respectively. Because these are the only channels available for WROC and WAFC in their respective communities, WROC may upgrade to Channel 275C2 and WAFC to Channel 258C3 as incompatible channel swaps. Engineering Statement at

⁷ Key Chain's consent is attached as Exhibit 2.

Exhibits 13-A and 13-C. Channel 275C2 is available for WROC at Fort Myers Villas only if WSGL vacates Channel 276C3 for Channel 284C3, as proposed herein.

15. WAFC may upgrade on Channel 258C3 without accepting competing expressions of interest because it involves an incompatible channel swap. The incompatible channel swap occurs because relinquishing Channel 292 to Naples leaves Channel 258 at Clewiston as the only channel available for WAFC. The incompatible swap between WAFC and WJBW occurs because WJBW must relinquish Channel 258A to Clewiston for WAFC to move to Channel 258 and upgrade to a Class C3 facility, and WAFC in turn must relinquish Channel 292A to Jupiter for WJBW to move to Channel 292 and upgrade to a Class C3 facility. In each instance, WJBW and WAFC may operate only on the channel relinquished by the other station; no other channels are available in their respective communities. Engineering Statement at 4-5 and Exhibits 13-A and 13-B thereto. Consequently, the upgrades are not open to competing expressions of interest.

16. Substitution of Channel 258C3 for WAFC at Clewiston requires a change in the transmitter site for WJBX(FM) on Channel 257C2 at Fort Myers Beach, Florida. Schefflera, Inc., licensee of WJBX, has consented to the change in transmitter site.⁸

17. Substitution of Channel 292A for WNOG permits WAAD(FM), Tice, Florida to substitute Channel 229C2 for 292A and modify the

⁸ Schefflera's consent is attached as Exhibit 3.

license of WAAD accordingly and change communities of license to Estero, Florida.⁹ The allotment of Channel 229C2 to Estero can be made in compliance with the Commission's separation requirements at the reference site contained within the NPRM. Estero is a Census Designated Place¹⁰ and is located in Lee County, Florida. Based on the 1990 Census, the community of Estero has a total population of 3,177 persons. According to the Lee County Division of Planning, Estero is a growing community with a current population of 7,705 persons. This is in direct contrast to the trend in Tice. The 1990 U.S. Census population for Tice was 3,971, a drop of 2,674 persons from the 1980 U.S. Census figure of 6,645 and down 3,283 from the 1970 figure of 7,254. Thus, a first local service to Estero will provide a service to a growing community as opposed to the shrinking community of Tice.

18. Not only is Estero a CDP, but it has other indicia of its status as a community for purposes of Section 307 of the Act. In

⁹ While WAAD is the only "service" allotted to Tice, this proposed community change will not deprive Tice of any actual service, as WAAD is not an operating facility. In the event the Commission approves this counterproposal, Tice would receive service from the Estero facility.

¹⁰ "Census Designated Places ("CDP's") are delineated for the decennial census as the statistical counterpart of incorporated places. CDP's comprise densely settled concentrations of population that are identifiable by name, but are not legally incorporated places." 1990 U.S. Census of Population and Housing-Florida, 1990 CPH-1-11, p.A-7. The Commission has found that "if a community is incorporated or listed in the U.S. Census, that is sufficient ground upon which to base a favorable determination of community status." Garden City, Indiana, 6 FCC Rcd 3747, 3748 (1991).

addition to its rapidly growing population, Estero has its own civic association which meets monthly and collects its own taxes in order to provide local fire service. It is also represented at the County level by its own Commissioner. In addition, Estero has its own churches, businesses (e.g., Estero Bay Properties, Inc. and Estero Tropical Fruits & Gifts) and residential areas, an elementary school and a high school. Estero clearly qualifies as a community deserving of its own local radio service.¹¹

III. The Joint Resolution Serves the Public Interest

19. The Joint Resolution far better serves the public interest than either counterproposal by permitting five stations to provide wide area service to at least an additional 1,229,204 persons. Thus, more listeners would receive additional wide area service than as a result of either Gulf's or Joint Counterproponents' proposed upgrades.

20. In addition, the Joint Resolution better serves the public interest by allowing five stations to provide wide area service more rapidly. The counterproposals would ultimately permit between one and four stations to provide wide area service, but only after a lengthy and costly rule making proceeding. Failure to grant the Joint Resolution would mean the public, as well as one of the counterproponents, must lose. Moreover, final resolution of

¹¹ The foregoing information was obtained from sources within the community.

either counterproposal would take years. Under the Joint Resolution, ***everybody wins***, and on an expedited basis.

21. The Commission has held in other contexts that settlement of litigation expediting new service and preserving scarce Commission resources is inherently in the public interest. See Amendment of Section 73.3525 of the Commission's Rules Regarding Settlement of Agreements Among Applicants for Construction Permits, 68 RR 2d 960, 961 (1990); Country-Politan Broadcasting, Inc., 68 FCC 2d 640, 641 (1978) (Chairman Ferris, concurring). The same principle should apply in the allocation context, where, as the Commission is well aware, numerous contested proceedings have taken years to resolve, clogging Commission processes and blocking upgraded aural service. Here, the Joint Resolution will resolve not one, but two rule making proceedings, save an enormous amount of staff time and effort, and permit five upgrades. Accordingly, it is respectfully submitted that the Commission should be as flexible as possible in order to accommodate this "win-win" scenario.

IV. Procedural Matters

A. Circleville Doctrine

22. The Joint Commenters, as beneficiaries of the substitutions required of WSGL, WWUS, WKKB, WNOG, WJBX and WKRY, are aware of and will honor their obligations under Commission policy to compensate the permittee and licensees of the

aforementioned stations for making such channel substitutions, should the Joint Resolution be adopted. Circleville, Ohio, 8 FCC 2d 159 (1967). Indeed, pursuant to the Joint Resolution, the resources of five parties would be available to pay the necessary reimbursement.

23. Amaturro, WSUV, GGG, Glades and Gulf hereby express their intention to file appropriate applications to implement upgrades for their stations, should this Joint Resolution be adopted.

B. Columbus Doctrine

24. The Joint Resolution requires three involuntary channel changes. The Joint Resolution involves channel changes for four stations other than the Joint Commenters' stations: WWUS, WSGL, WNOG and WKKB. WKKB is an authorized but unbuilt station and therefore no consent is required. See Big Pine Key, FCC DA 94-1501 at 2 (released December 27, 1994) (Chief, Allocations Branch). Therefore, the modifications to WSGL, WNOG and WWUS are the only involuntary changes proposed to operating stations.

25. The aggregate of three channel changes without consent made necessary by the Joint Resolution does not violate the Columbus doctrine, which permits no more than two channel changes without prior consent. See Columbus, Nebraska, 59 RR 2d 1184 (1986). The Joint Resolution combines two separate counterproposals involving five different counterproponents. Each counterproposal independently complies with the Columbus doctrine. Furthermore, each party benefitting from upgrades simply could have

filed separate counterproposals, with each separate counterproposal proposing numerous channel substitutions. See Castle Rock, Colorado, 73 RR 2d 605, 607 (Chief, Policy and Rules Division) (1993). Under this approach, the counterproponents could have proposed as many as ten channel substitutions without consent. Instead, for simplicity, clarity and a desire to relieve the Commission of complex processing burdens, the parties elected to file their comments jointly. The Joint Commenters should not be penalized for this approach; nor should the public.

26. Moreover, the Joint Resolution serves the public interest by upgrades superior to those contained in either the NPRM or the counterproposals. Second, the Joint Resolution also proposes additional service improvements which the Commission presumably would not have proposed without the Joint Resolution. The Commission repeatedly has held that service improvements are in the public interest. See Castle Rock at 607.

Conclusion

The Joint Commenters offer a Joint Resolution to provide wide area service for five stations to more members of the public than either counterproposal. Furthermore, as discussed above, a grant of the Joint Resolution further serves the public interest by resolving pending petitions for reconsideration in Clewiston, Florida and Big Pine Key. Therefore, the Commission should grant the Joint Resolution.


WHEREFORE, for the foregoing reasons, Amaturio Group, WSUV, Inc., GGG Broadcasting, Inc., Glades Media Company and Gulf Communications Partnership respectfully request that the Commission stay action on the pending counterproposals in this proceeding and not require the parties to comment on unless and until unfavorable action on the Joint Resolution is taken and grant their Joint Resolution and that the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, be amended in the following respects:

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Call Sign</u>
Indiantown	276C2	276C1	WPBZ(FM)
Naples	276C3	284C3	WSGL(FM)
Big Pine Key	284C	281C	WWUS(FM)
Key Colony Beach	280C2	267C2	WKKB(FM)
Naples	228A	292A	WNOG(FM)
Ft. Myers Villas	292A	275C2	WROC(FM)
Clewiston	292A	258C3	WAFC-FM
Jupiter	258A	292C3	WJBW(FM)
Tice	229A	---	---
Estero	---	229C2	WAAD(FM)

Respectfully submitted,

**AMATURO GROUP
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GGG BROADCASTING, INC.
GLADES MEDIA COMPANY**

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March 6, 1995

EXHIBIT 1
ENGINEERING STATEMENT OF
JAMES JOHNSON

**ENGINEERING EXHIBIT
JOINT REPLY COMMENTS
TO MM DOCKET NO. 94-155**

**AMATURO GROUP, LTD., WSUV, INC., GGG BROADCASTING, INC.,
GLADES MEDIA COMPANY AND GULF COMMUNICATIONS PARTNERSHIP**

TO AMEND THE FM TABLE OF ALLOTMENTS AT:

**INDIANTOWN, FLORIDA
NAPLES, FLORIDA
BIG PINE KEY, FLORIDA
KEY COLONY BEACH, FLORIDA
TICE-ESTERO, FLORIDA
FORT MYERS VILLAS, FLORIDA
CLEWISTON, FLORIDA
JUPITER, FLORIDA**

MARCH, 1995

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ENGINEERING STATEMENT
JOINT REPLY COMMENTS IN MM DOCKET 94-155

This Engineering Statement has been prepared on behalf of WSUV, Inc. ("WSUV"), Licensee of WROC, Fort Myers Villas, Florida, Amaturio Group Ltd. ("Amaturio"), Licensee of WPBZ, Indiantown, Florida, GGG Broadcasting, Inc. ("GGG"), Licensee of WJBW, Jupiter, Florida, Glades Media Company ("Glades"), Licensee of WAFC-FM, Clewiston, Florida and Gulf Communications Partnership ("Gulf") Permittee of WAAD, Tice, Florida ("Joint Commenters") in support of Joint Reply Comments to MM Docket No. 94-155 to amend Section 73.202(b) of the Commission's rules.

The following changes were originally proposed in MM Docket No. 94-155:

	Channel No.	
	Present	Proposed
Tice, Florida	229A	229C2
Big Pine Key, Florida	284C	283C
Key Colony Beach, Florida	280C2	267C2
Naples, Florida	228A	284A

The following changes are proposed in the "Joint Reply Comments" in MM Docket 94-155:

	Channel No.	
	Present	Proposed
Indiantown, Florida	276C2	276C1
Naples, Florida	276C3	284C3
Big Pine Key, Florida	284C	281C
Key Colony Beach, Florida	280C2	267C2
Tice, Florida	229A	-----
Esterro, Florida	-----	229C2
Naples, Florida	228A	292A
Fort Myers Villas, Florida	292A	275C2
Clewiston, Florida	292A	258C3
Jupiter, Florida	258A	292C3

Engineering Statement
Joint Reply Comments in MM Docket 94-155
Page 2

The above Joint Reply Comments conflict with proposals already under consideration in MM Docket No. 94-155 due to the incompatibility of the proposed use of Channel 284 at Naples, Florida and Channel 283 at Big Pine Key, Florida.

1. Indiantown, Florida (WPBZ)

The Joint Proponents request that the Commission substitute Channel 276C1 for Channel 276C2 at Indiantown, Florida at the reference coordinates North Latitude 26° 56' 22" and West Longitude 80° 07' 04". Exhibit 1-A is a spacing study for the present Indiantown operating facility. Exhibit 1-B is the spacing study for the facilities proposed in the Joint Reply Comments. The population for Indiantown increases from 733,094 for the present operating facility to 1,176,488 for the proposed, an increase of 443,394 persons within the 1.0 mV/m contour for the Class C1 operation. The Channel 276C1 proposal is short-spaced to Channel 276C3 at Naples.

2. Naples, Florida (WSGL)

The substitution of 276C1 at Indiantown is shortspaced to Channel 276C3 at Naples. The Joint Commenters request the substitution of Channel 284C3 for Channel 276C3 at Naples for the existing operation of WSGL. There is no change in the existing site proposed. Exhibit 2-A is a spacing study for the present operating facility. Exhibit 2-B is a spacing study for use of Channel 284C3 at Naples. There are no changes in coverage or population proposed for WSGL.

3. Big Pine Key, Florida (WWUS)

The substitution of Channel 284C3 at Naples is shortspaced to Channel 283C as proposed in Docket 94-155 as well as the present operation on 284C or C1 at Big Pine Key. The Joint

Engineering Statement

Joint Reply Comments in MM Docket 94-155

Page 3

Commenters propose to use Channel 281C for WWUS at its current site at Big Pine Key to clear the Naples use of 284C3. To allow use of Channel 281C, it is necessary to change Key Colony Beach from Channel 280C2 to Channel 267C2 as proposed in Docket 94-155. The use of Channel 281C is short spaced to the present operation of WKRY on Channel 228C2 at Key West. WKRY consents to a site change to accommodate the use of Channel 281C at Big Pine Key. Exhibit 3-A is a spacing study for the present WWUS operating facility. Exhibit 3-B is a spacing study with Big Pine Key operating with the Joint Commenters proposed facilities on Channel 281C at the present WWUS site.

4. Key Colony Beach, Florida (WKKB)

The use of Channel 281C at Big Pine Key is shortspaced to the use of Channel 280C2 at Key Colony Beach as proposed in MM Docket 93-136. The Joint Commenters request the Commission substitute Channel 267C2 for Channel 288C2 or 280C2 at Key Colony Beach, Florida, at the reference coordinates North Latitude 24° 42' 25" and West Longitude 81° 06' 17". This site is the same as the currently authorized CP for WKKB on Channel 288C2. Exhibits 4-A and 4-B are spacing studies for the present and proposed Key Colony Beach allocations. There are no population changes at Key Colony Beach based on these changes. This station has a Construction Permit but has not commenced operations.

5. Naples, Florida (WNOG-FM)

The Joint Reply Commenters propose to change the operation of WNOG-FM from Channel 228A to Channel 292A. Exhibit 5-A is a spacing study for the existing WNOG-FM facilities. Exhibit 5-B is a spacing study for the Joint Commenters proposed WNOG-FM on Channel 292-A. No change in transmitter site is proposed for WNOG-FM.